

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA,

vs.

KEITH SIMMONS

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CASE NO. 3:10-cr-0023-001
(Financial Litigation Unit)

APPLICATION FOR WRIT OF EXECUTION

The United States of America makes application pursuant to the Federal Debt Collection Procedures Act of 1990 28 U.S.C. §3001 et seq., and specifically 28 U.S.C. §3203, to the Clerk of the United States District Court to issue a Writ of Execution. In support of this request, the United States shows the Court as follows:

1. Defendant KEITH FRANKLIN SIMMONS whose social security number is XXX-XX-2678 and last known address is XXXXXXXX, XXXXXXX, XX, XXXXX is indebted to the United States in the judgment amount of \$35,332,032.60 as a result of a judgment filed in favor of the United States of America entered on June 11, 2012 in the instant case. There are no additional costs or interest associated with the judgment at this time. The outstanding balance on the account as of November 18, 2014 is \$34,568,139.79.

2. The United States is entitled to execute on any and all funds held in the name of KEITH SIMMONS, or any and all funds in which DEFENDANT KEITH SIMMONS has an interest. *See also* Docket Nos. 3:12-CR-68, 3:11-CV-0023.

3. There is property in which DEFENDANT KEITH SIMMONS has a substantial nonexempt interest which the United States may levy upon for payment of the above judgment, said property being funds located in any and all accounts held by Huntington National Bank in

the name of Safe Harbor Wealth Investments, Inc. and/or Jonathan Davey at the following address: Huntington Center, 41 South High Street, Columbus, Ohio 43287.

4. Defendant Keith Simmons was convicted of criminal securities and wire fraud, and money laundering charges stemming from his orchestration, with the assistance of Jonathan Davey and others, of a massive Ponzi scheme (“Black Diamond Ponzi Scheme”) that began in 2007 and fell apart in 2009. (*See* Doc. 39).

5. The United States now seeks to execute on \$3,324,000.00 previously withdrawn from Black Diamond. *See* Docket No. 3:11-CV-0023 at Doc. No. 81 (admission that the \$3,324,000.00 in funds at issue were “withdrawn from DCS’ investment with Black Diamond during October 2008 [. . . .]”).

This 21st Day of November, 2014.

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